

SUBJECT: RECOMMENDATION REPORT
Mahamevna Bhavana Asapuwa Toronto
Applications for Amendments to the Official Plan,
Minister's Zoning Order and Zoning By-law to permit a
Place of Worship at 11175 Kennedy Road
File Nos. OP 12 117122 and ZA 12 117122

PREPARED BY: Rick Cefaratti, ext. 3675, Planner II, West District

REVIEWED BY: Ron Blake, ext. 2600, Manager, West District

RECOMMENDATION:

- 1) That the report titled "RECOMMENDATION REPORT, Mahamevna Bhavana Asapuwa Toronto Applications for Amendments to the Official Plan, Minister's Zoning Order and Zoning By-law to permit a Place of Worship at 11175 Kennedy Road," and dated June 18, 2013 be received;
- 2) That the applications by Mahamevna Bhavana Asapuwa Toronto to amend the Official Plan and Zoning By-law to permit a Place of Worship at 11175 Kennedy Road be approved;
- 3) That the proposed amendment to the Minister's Zoning Order (MZO) for such purposes, be endorsed;
- 4) That the Recommendation Report be forwarded to the Ministry of Municipal Affairs and Housing (MMAH);
- 5) That the proposed amendment to the Official Plan be adopted and forwarded to the Region of York for approval;
- 6) That the proposed amendment to City by-law 304-87, as amended, be enacted after the proposed Official Plan Amendment is approved by the Region of York; and,
- 7) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

Not Applicable.

PURPOSE:

The purpose of this report is to provide comments on an application by Mahamevna Bhavana Asapuwa Toronto to amend the Official Plan and Zoning By-law to permit a Place of Worship at 11175 Kennedy Road and to amend the Minister's Zoning Order (MZO) to allow for non-agricultural uses.

BACKGROUND:**Property and Area Context**

The 0.82 ha. (2 ac.) property is located on the east side of Kennedy Road, north of Elgin Mills Road. A 605m² (6512 ft²) two storey residential dwelling with a gross floor area of 605m² (6512 ft²) exists on the property which is currently used as a residence by Buddhist Monks and as a meeting place for Buddhist meditation and worship.

The surrounding context is as follows:

- To the north is a rural residential use. Further to the north is the Mandarin Golf Course
- To the south and east is the Mandarin Golf Course. Further to the south is Camp Green Acres.
- To the west, across Kennedy Road, is the North Toronto Chinese Baptist Church and the Melville Trustees Cemetery, and rural/agricultural uses

PROVINCIAL PLANNING FRAMEWORK:Ministers Zoning Order

The property is subject to a Minister's Zoning Order (MZO), Ontario Regulation 104/72. The purpose of the Minister's Zoning Order Ontario Regulation 104/74 is to regulate land use in relation to the proposed future Pickering Airport development. This regulation limits the permitted uses on the property to agricultural uses and accessory buildings and structures associated with agriculture, and existing single detached dwellings and enlargements thereto. A Place of Worship is not permitted by this regulation.

Provincial Policy Statement

The Provincial Policy Statement (PPS) protects airports from incompatible uses and new residential development by prohibiting such uses in the area near existing/future airports above the 30 Noise Emission Factor/Noise Exposure Projection (NEF/NEP). The NEF and NEP are noise exposure contours that Transport Canada developed to provide provincial and municipal planning authorities with long range guidance for developing communities. The Ministry of Municipal Affairs and Housing, advises that the subject property is not located above the 30 NEF/NEP.

The Provincial Policy Statement also protects the long-term viability of agriculture within prime agricultural areas by limiting non-agricultural uses. According to the PPS, lands within prime agricultural areas may be used for non-agricultural uses provided that a proposal satisfies the following criteria:

1. The land does not compromise a specialty crop area;
2. There is demonstrated need for the proposed use;
3. There are no reasonable alternatives which avoid prime agricultural areas;
4. There are no reasonable alternatives which avoid prime agricultural areas with lower priority agricultural lands.

York Region Official Plan

The subject property is designated Agricultural Area by the Region of York Official Plan. The Region of York Official Plan designation permits normal farm practices and a full range of agricultural uses, agriculture related uses and secondary agricultural uses. A Place of Worship is not a permitted use under this designation. The applicant has submitted an application to the Region of York to amend the Regional Official Plan to permit a Place of Worship on the property.

Markham Official Plan

The site is designated Agriculture One by the Markham Official Plan. The Markham Official Plan states that where land is designated Agriculture 1, the primary and predominant use of land shall be for agriculture. Permitted uses include farming activity, land uses related to and supportive of farming activities or the farming community, and existing rural residential uses. Land uses that are compatible with farming activity are also permitted, subject to justification of such use as outlined in the Official Plan. The justification criteria include the following:

- Need for the Proposed Use
- Location of the Proposed Use
- Impact on Agricultural Land and Farming Activities
- Impact on Natural Resources

The Markham Official Plan does not permit places of worship within the Agricultural designations. However, a proposal to amend the Markham Official Plan to permit a use other than those uses permitted in the Agricultural designation shall require justification by the applicant as outlined in the Official Plan (as noted above), unless certain criteria are met including that the proposal is on an existing lot not greater than 2.0 ha. (4.9 ac.), the lot is isolated from larger agricultural holdings by natural or man-made features and the proposal is for rural residential or another rural type of use that is complementary to and compatible in scale and character with the rural surroundings. The applicant has submitted an application to amend the City's Official Plan (see Attachment 1) and an Agricultural Assessment Study.

The City's Official Plan is currently under review. The draft version of the new Official Plan designates the site as Countryside Area. This designation provides for a full range of agricultural uses associated with normal farm practices and also allows for small scale agriculture-related uses such as facilities for packaging and/or storing of agricultural produces. Compatible non agricultural uses such as fish, wildlife and forestry management, conservation, canine and feline boarding, a veterinary clinic, sod farm, horse farm and nature based recreation are also permitted. The Countryside Area designation also provides for small scale Secondary Agricultural uses such as farm business, a bed and breakfast establishment or a cottage winery. Residential dwellings are permitted in the Countryside Area. The policies for the Countryside Area prohibit all other non agricultural uses except for those noted above.

Zoning

The southern portion of the property is zoned Rural Residential (RR1) and the northern portion of the property is zoned Agriculture (A1) by Markham By-law 304-87, as amended. A Place of Worship is not a permitted use on the property.

Proposal

The applicant is proposing a one storey 789 m² (8,489 ft²) meditation hall addition to the existing dwelling. The Buddhist Monks would continue to reside in the existing dwelling (Figures 4 & 5). The proposal includes an Official Plan Amendment and Zoning By-law Amendment to add a Place of Worship as a permitted use on the property (Attachments 1 & 2).

OPTIONS/ DISCUSSION:

The applicant has submitted a Planning Rationale, Agricultural Impact Assessment and Traffic Impact Study in support of this application. These studies were reviewed by Regional and City staff. The Region has sent the Agricultural Impact Assessment out for a peer review.

Traffic Impact Study

Regional and City Transportation Engineering Staff have accepted the findings of the Traffic Impact Study prepared by Lea Consulting Ltd., dated January 2012. The Study determined that the proposed Place of Worship will have minimal impact on the level of service for Kennedy Road.

Planning Rationale

City of Markham Policy Planning Staff have reviewed the Planning Rationale submitted with the application. The site is surrounded by non-agricultural uses such as the Mandarin Golf Course and Camp Green Acres. The subject lands have not been used for agricultural purposes for decades. It is unlikely that the surrounding properties will revert back to agricultural uses. Also, the subject site is not of a size and configuration that would be viable, on its own, for agricultural uses. Non-agricultural uses on the site would not result in a loss of agricultural land or have a negative impact on Agricultural uses in the surrounding area.

Agricultural Impact Assessment

Region of York as well as City of Markham Policy and Development Planning staff concur with the comments provided in the Peer review of the Agricultural Impact Assessment. The Assessment states that, due to the relatively small size of the property and the number of non-farm uses surrounding it, the utilization of the property for non-agricultural use will not adversely impact the existing agricultural land base.

Site Plan Approval Required

Prior to the issuance of a building permit, the applicant will be required to apply for and obtain Site Plan approval for the proposed one storey 789 m² (8,489 ft²) meditation hall addition to the existing dwelling. Development Services Committee is the Approval Authority for the required Site Plan.

Upgraded Septic System Required

The existing septic system is adequately sized for the permitted rural residential only. A larger system will be required to accommodate the proposed Place of Worship. Based on discussions with the applicant and Building Staff, it appears that there is sufficient space in the front yard to accommodate an upgraded septic system. The applicant will be required to submit a detailed septic system design through the Building Permit process.

Municipal Water Not Available

The applicant has advised that in lieu of municipal water service, the existing Well on the property will continue to be used to service the existing residential dwelling and proposed Place of Worship.

FINANCIAL CONSIDERATIONS AND TEMPLATE:

Not applicable.

HUMAN RESOURCES CONSIDERATIONS

Not applicable.


ALIGNMENT WITH STRATEGIC PRIORITIES:


The Official Plan and Zoning By-law Amendment applications have been considered relative to Growth Management and Transportation requirements. Additional detailed review will occur at the site plan approval stage.

BUSINESS UNITS CONSULTED AND AFFECTED:

Not applicable.

RECOMMENDED BY:


Rino Mostacci, M.C.I.P., R.P.P.
Director of Planning & Urban Design


James Baird, M.C.I.P., R.P.P.
Commissioner of Development Services

ATTACHMENTS:

Figure 1 – Location Map

Figure 2 – Area Context/Zoning

Figure 3 – Air Photo

Figure 4 – Proposed Site Plan

Figure 5 – Proposed Building Elevations

Attachment 1 – Proposed Official Plan Amendment

Attachment 2 – Proposed Zoning Amendment

AGENT/APPLICANT:

Randal Dickie

5694 Highway 7 East

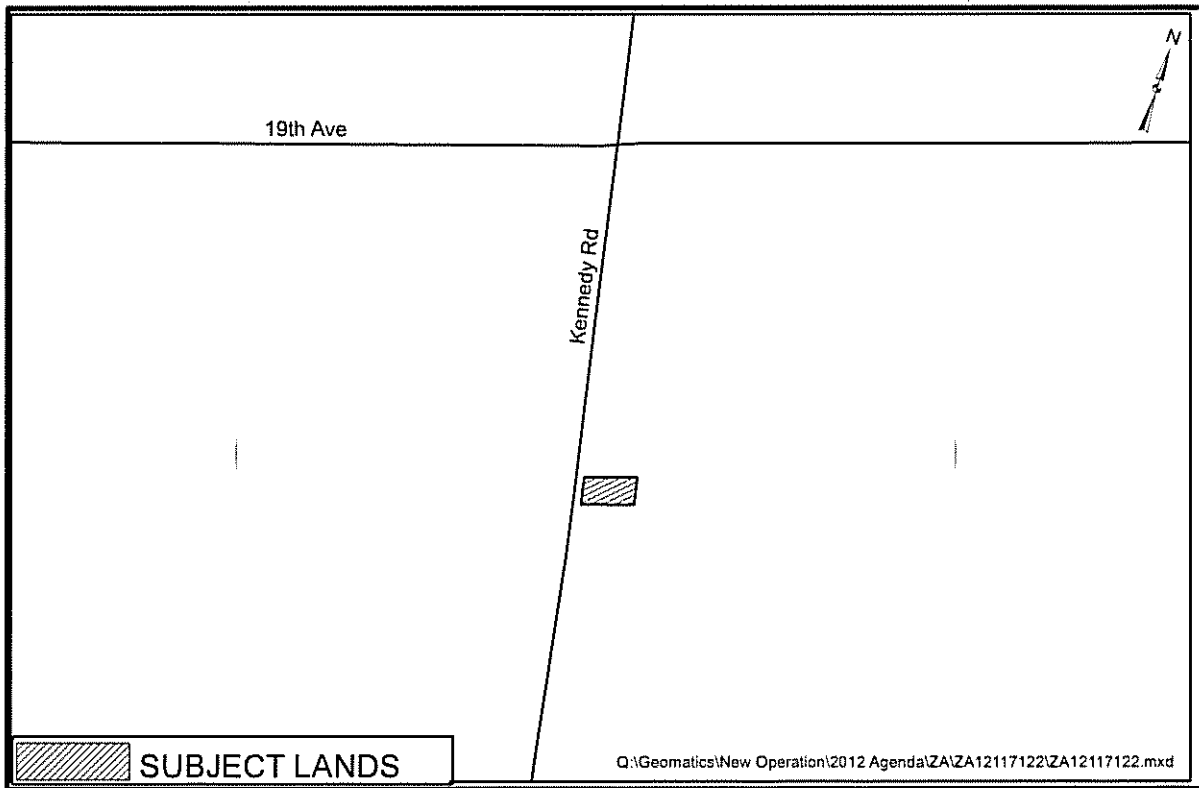
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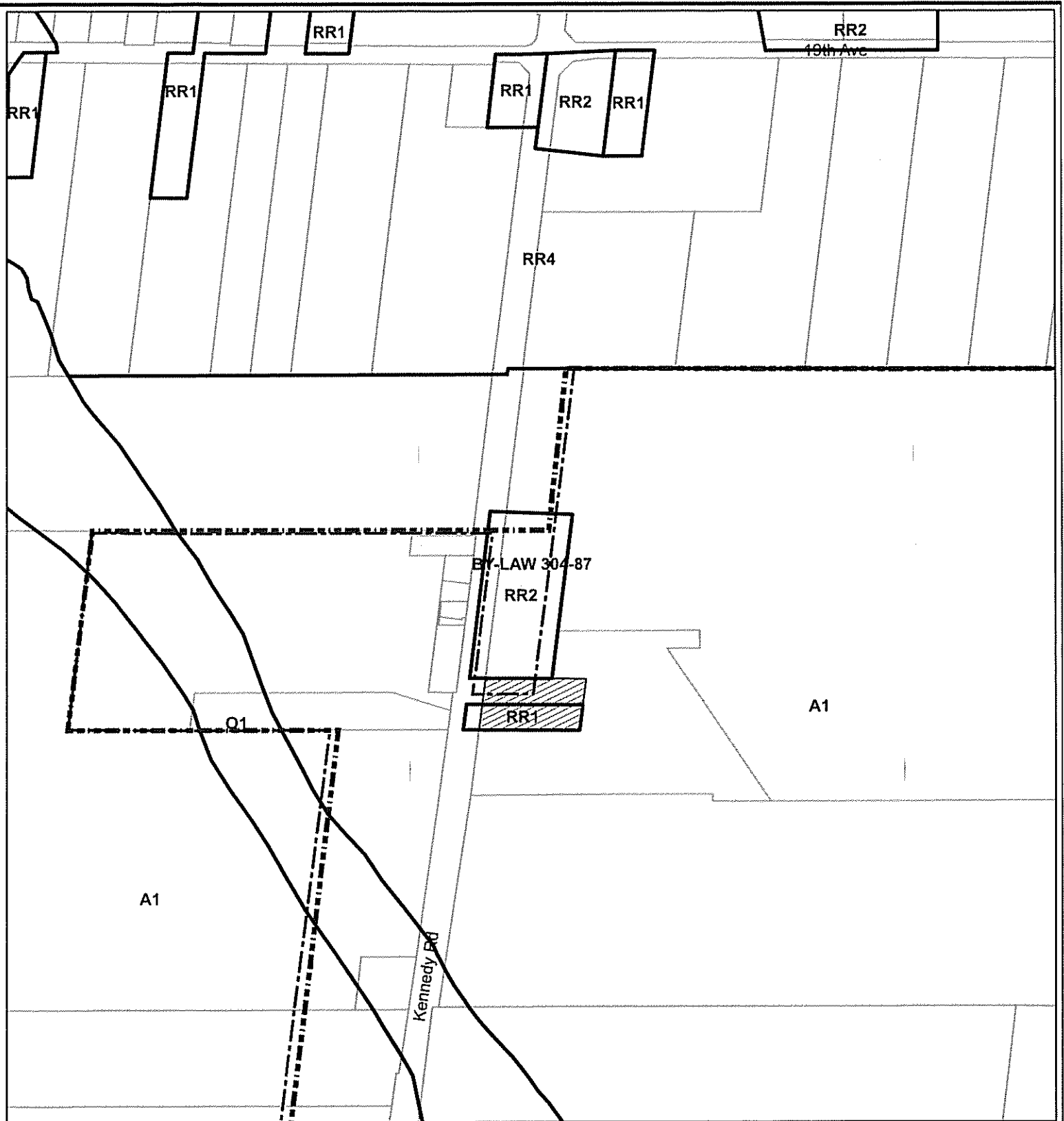
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AREA CONTEXT / ZONING

APPLICANT: MAHAMEVNA BHAVANA ASAPUWA TORONTO
11175 KENNEDY ROAD

 SUBJECT LANDS

FILE No. ZA.12117122 & OPA.12117122 (GS)

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DATE: 08/17/2012

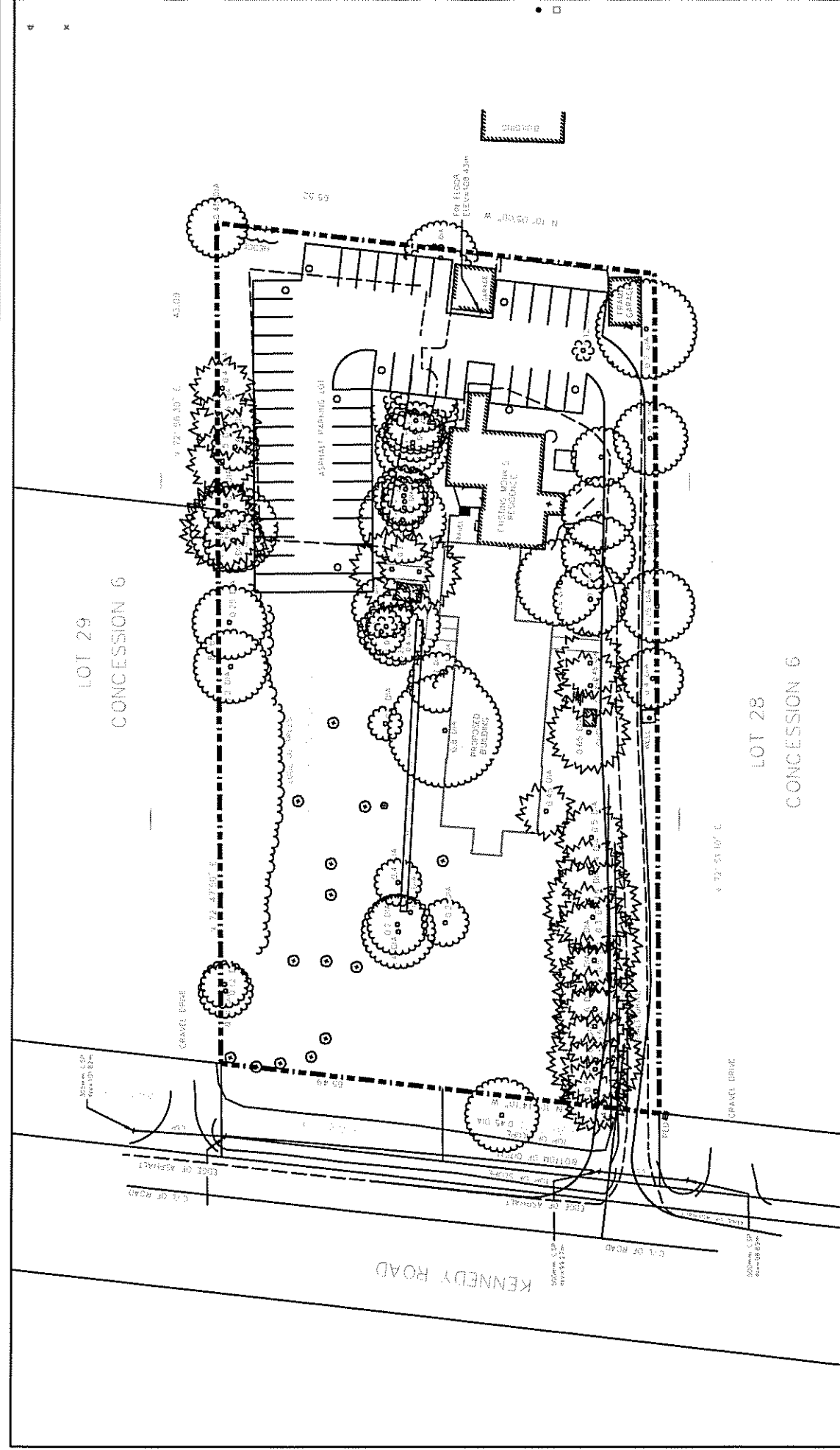


DEVELOPMENT SERVICES COMMISSION

Drawn By: CPW

Checked By: GS

FIGURE No. 2

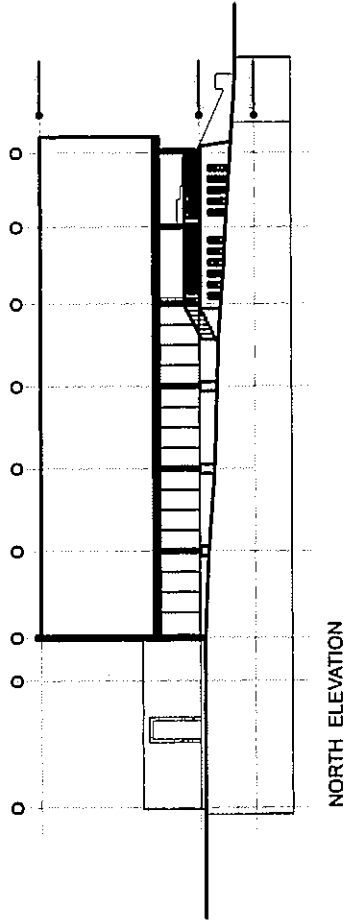


SITE PLAN

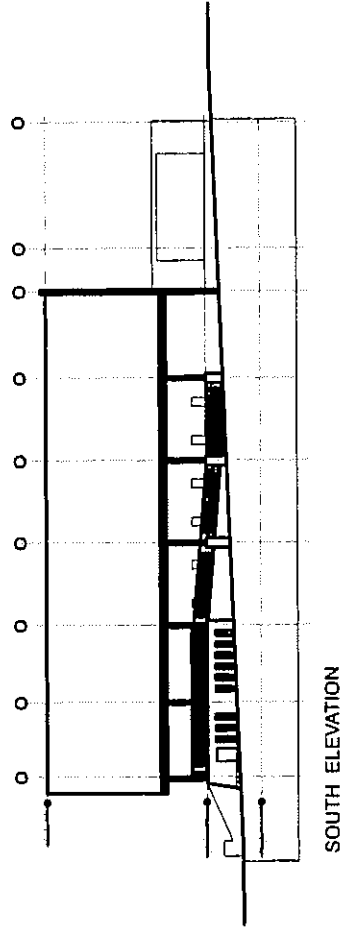
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11175 KENNEDY ROAD

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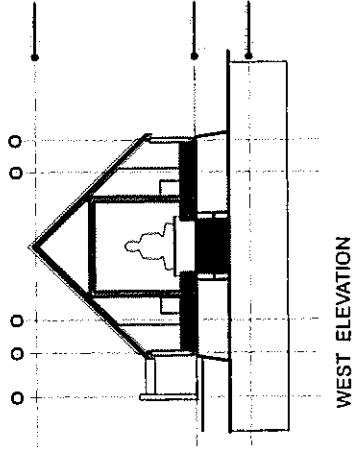
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NORTH ELEVATION



SOUTH ELEVATION



WEST ELEVATION

ELEVATIONS

APPLICANT: MAHAMEVNA BHAVANA ASAPUWA TORONTO
11175 KENNEDY ROAD

FILE No. ZA.12117122 & OPA.12117122 (GS)

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AIR PHOTO

APPLICANT: MAHAMEVNA BHAVANA ASAPUWA TORONTO
11175 KENNEDY ROAD

 SUBJECT LANDS

FILE No. ZA.12117122 & OPA.12117122 (GS)

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DATE: 08/17/2012

 MARKHAM DEVELOPMENT SERVICES COMMISSION

Drawn By: CPW

Checked By: GS

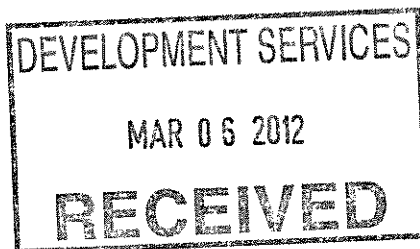
FIGURE No. 3

OFFICIAL PLAN
of the
TOWN OF MARKHAM PLANNING AREA
AMENDMENT NO. XXX

to amend the Official Plan (Revised 1987), as amended
to incorporate Amendment No. XXX

MAHAMEVNA BHAVANA ASUPAWA TORONTO
11175 KENNEDY ROAD

(_____, 2012)



OFFICIAL PLAN
of the
MARKHAM PLANNING AREA
AMENDMENT NO. XXX

To amend the Official Plan (Revised 1987), as amended to incorporate Amendment No. XXX.

This Official Plan Amendment was adopted by the Corporation of The Town of Markham, By-law No. _____ - _____ in accordance with the Planning Act, R.S.O., 1990 c.P.13, as amended on the _____ day _____ 2012.

Mayor

Town Clerk

THE CORPORATION OF THE TOWN OF MARKHAM

BY-LAW No. _____

Being a by-law to adopt Amendment No. XXX to the Markham Official Plan (Revised 1987), as amended.

THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM IN ACCORDANCE WITH THE PROVISIONS OF THE PLANNING ACT, R.S.O., 1990 HEREBY ENACTS AS FOLLOWS:

1. THAT Amendment No. XXX to the Town of Markham Official Plan (Revised 1987), as amended, attached hereto, is hereby adopted.
2. THAT this by-law shall come into force and take effect on the date of the final passing thereof:

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS _____
DAY OF _____, 2012.

TOWN CLERK

MAYOR

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PART I – INTRODUCTION

(This is not an operative part of Official Plan Amendment No. XXX)

PART I INTRODUCTION

1.0 GENERAL

- 1.1 PART I - INTRODUCTION, is included for information purposes and is not an operative part of this Official Plan Amendment.
- 1.2 PART II - THE OFFICIAL PLAN AMENDMENT, constitutes Amendment No. XXX to the Official Plan (Revised 1987), as amended. Part II is an operative part of this Official Plan Amendment.

2.0 LOCATION

The Amendment to the Official Plan applies to the lands located at 11175 Kennedy Road.

3.0 PURPOSE

The purpose of this Amendment is to recognize the existing rural residential dwelling on site, as well as permit the use of the property as a Place of Worship, and allow for an expansion of the exiting structure to include a larger Meditation Hall (Place of Worship).

4.0 BASIS OF THIS OFFICIAL PLAN AMENDMENT

The Amendment recognizes the growing demand in the Town of Markham and the eastern GTA, for the Buddhist faith to locate in a more serene setting, which can not be easily provided in a more urban environment. The Amendment also recognizes that there are several other religious institutions and other non-farm related land uses in the area which are located immediately adjacent to, or in close proximity to the subject lands. In fact the subject lands are surrounded on three sides by non-farm land uses (e.g., the Mandarin Golf and Country Club).

Permitting the proposed use will not set a land use precedent by introducing a new land use to the area; no investment in agricultural infrastructure or land improvements will be retired as a result of the proposed development; and the minimum distance separation (MDS I) requirements for the proposed use from neighboring livestock operations comply with the MDS I.

PART II – THE OFFICIAL PLAN AMENDMENT

(This is an operative part of Official Plan Amendment No. XXX)

PART II – THE OFFICIAL PLAN AMENDMENT

1.0 THE OFFICIAL PLAN AMENDMENT

- 1.1 Section 1.1.2 of Part II of the Official Plan (Revised [987). as amended, is hereby amended by the addition of the number XXX to the list of amendments, to be placed in numerical order including any required grammatical punctuation.
- 1.2 Schedule “A”, Land Use plan is amended by deleting the Agricultural A1 designation on the lands, and replacing it with an Institutional Land use designation.

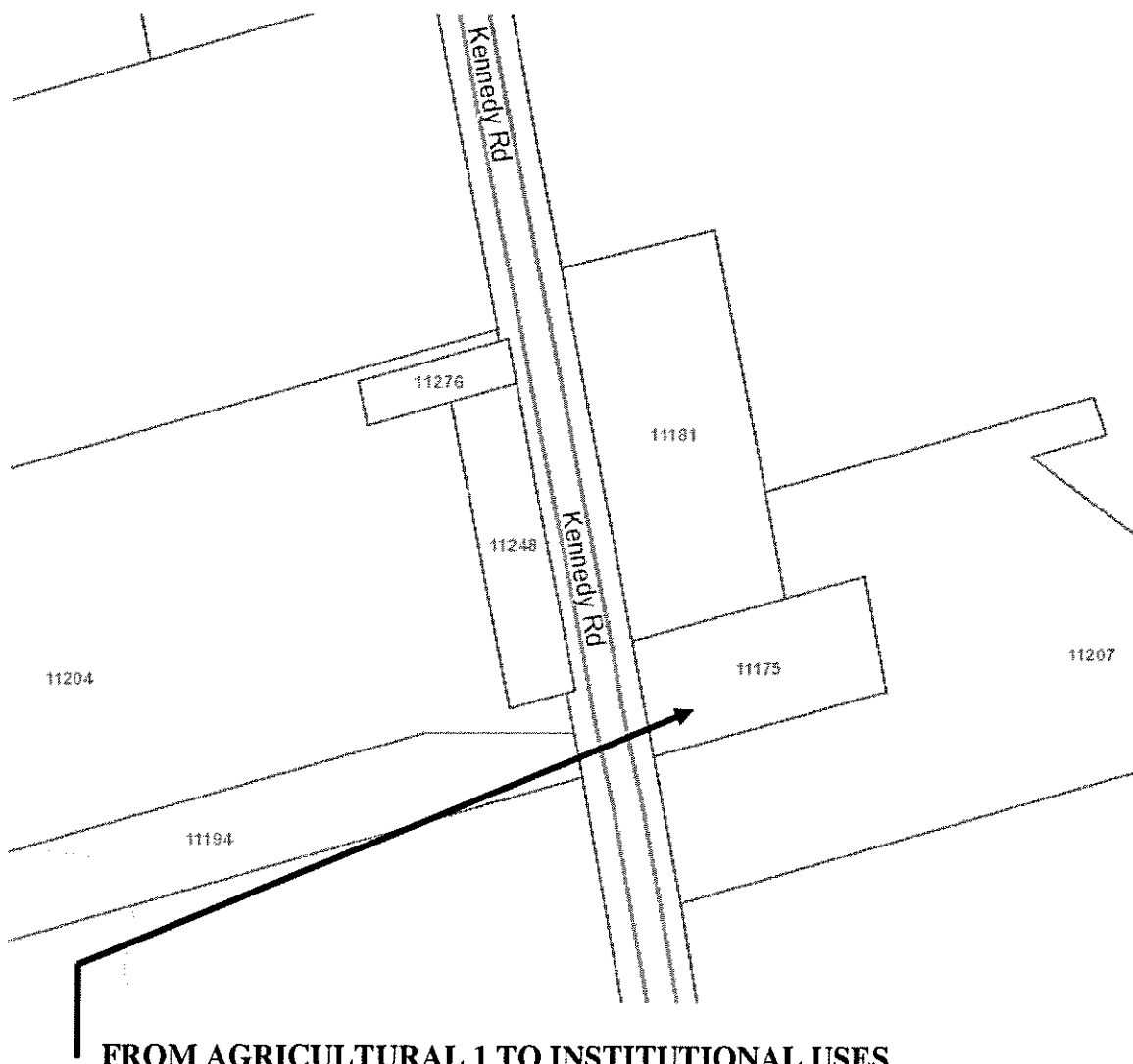
2.0 IMPLEMENTATION AND INTERPRETATION

The provisions of the Official Plan, as amended, regarding the implementation and interpretation of the Plan, shall apply in regard to this Amendment, except as specifically provided for in this Amendment.

This Amendment shall be implemented by an amendment to the Zoning By-law in conformity with the provisions of this Amendment.

This Amendment to the Official Plan (Revised 1987), is exempt from the approval by the Region of York. Following adoption, notice of Councils decision will be given in accordance with the Planning Act, and the decision of Council is final, if a notice of appeal is not received before or on the last day for filing an appeal.

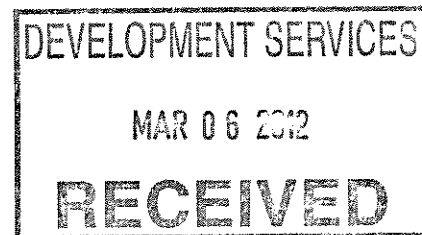
Prior to Councils decision becoming final, this Amendment may be modified to incorporate technical amendments to the text and schedule(s). Technical amendments are those minor changes that do not affect the policy or intent of the Amendment.

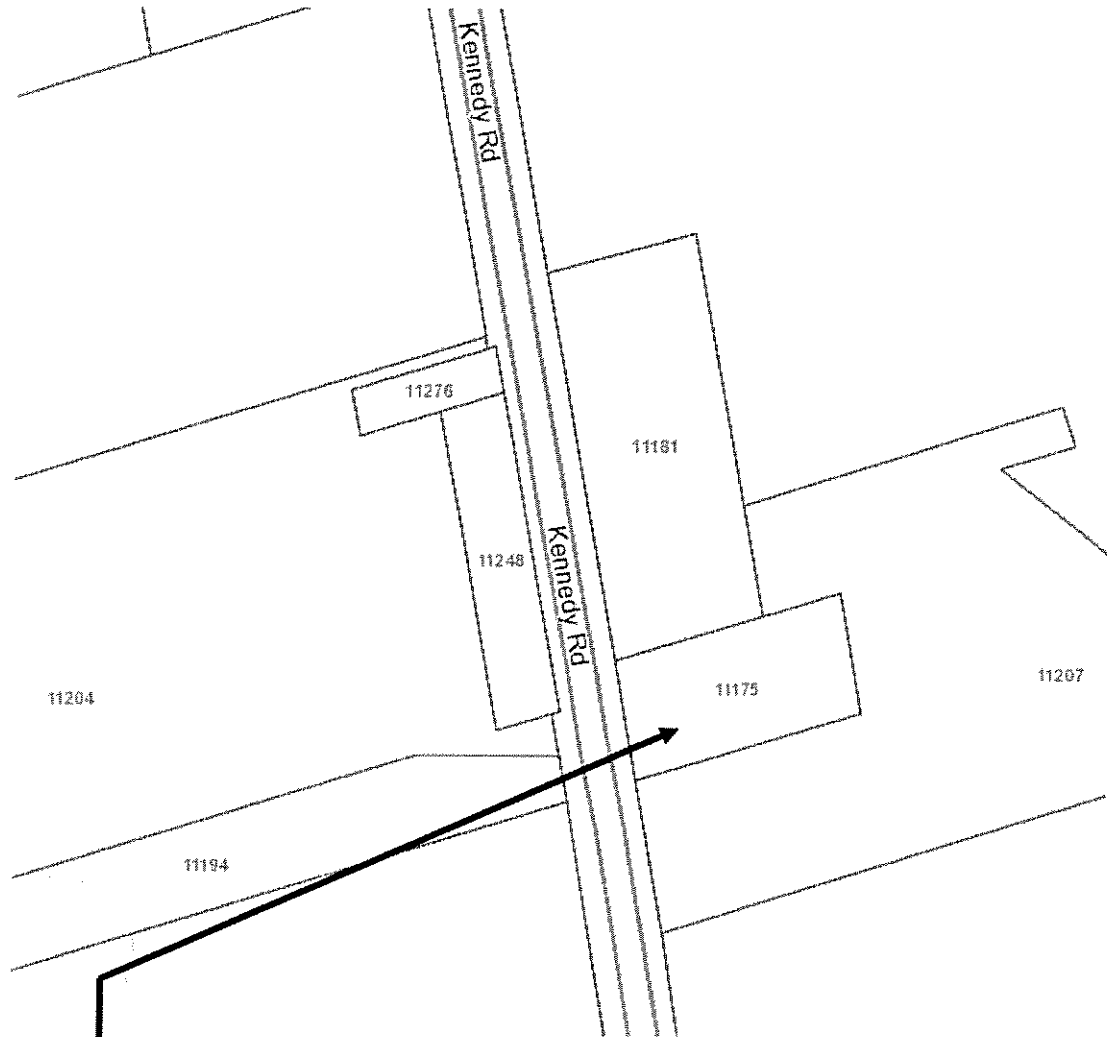


FROM AGRICULTURAL 1 TO INSTITUTIONAL USES

OFFICIAL PLAN AMENDMENT No. XXX

**TOWN OF MARKHAM OFFICIAL PLAN (REVISED 1987)
AS AMENDED**





From Rural Residential 1 (RR1) and Agricultural 1 (A1), to Rural Residential (RR1) and Institutional (Inst.).

A BY-AW TO AMEND BY-LAW 304-87